Department of Veterans Affairs

Memorandum

Date: August 22, 2024

From: Special Agent, Law Enforcement Oversight and Criminal Investigation Division

Subj: VA OIG Hotline Case Referral 2024-02060-HL-0660

To: Senior Executive Director, Office of Security and Law Enforcement
Thru: Director, Police Service

PURPOSE

To document the investigation into a complaint that was received by the VA OIG Hotline alleging that the Phoenix VA Police Service are in violation of VA Handbook/Directive 0730.

ALLEGATION

Per the referral, *"A complainant alleges that the Phoenix VA Police are in violation of VA Handbook/Directive 0730. It is reported that officers have been trained through the Field Training Officer (FTO) program to arrest individuals, conduct searches, detain them in a holding cell, and carry out an inventory of their belongings. Following these actions, the individuals are issued a payable citation and released. However, these actions contravene the stipulations of VA Handbook/Directive 0730, which clearly requires that arrested individuals be brought before a magistrate as per the Federal Rules of Criminal Procedure – Rule 5. The persistent neglect of this directive reflects a systemic oversight and a violation of the established procedures within the VA Handbook/Directive 0730."*

The above complaint was anonymous. (Attachment #1).

EXECUTIVE SUMMARY

Allegation #1: Phoenix VA Police Service are in violation of VA Handbook/Directive 0730. (Attachment #2).

Disposition: Not Substantiated. The complainant reported that officers have been trained through the Field Training Officer (FTO) program to arrest individuals, conduct searches, detain them in a holding cell and carry out an inventory of their belongings. Following these actions, the individuals are issued a payable citation and released. The

complainant further states these actions contradict VA Handbook 0730 as it's their belief that an arrested individual must be brought before a magistrate. As part of this investigation, the Chief of Police was contacted and advised that the Phoenix VAMC Police Service officers receive training and follow the applicable VA directives as it relates to when it is appropriate to cite and arrest individuals.

In addition, the facility police training records were reviewed by the Office of Security and Law Enforcement during a program inspection conducted in March 2022 and an unannounced site visit conducted in July 2023. During the above reviews, the facility police service was compliant with their training and determined to be operating in a legally and technically manner.

The complainant did not provide any information that supports their interpretation of the applicable VA handbook and directives. In addition, since the complainant was anonymous, further follow up regarding the details of his/her allegation was not possible.

INVESTIGATIVE FINDINGS

As clearly defined in VA Handbook/Directive 0730 (Attachment #2). VA Police have the authority to search offenders of crimes committed on VA department property, incident to arrest. The U.S. Court Violation Notice has been adopted by the Department of Veterans Affairs for use at all facilities irrespective of the degree of Federal jurisdiction held over the property for the enforcement of Title 38 CFR $1.218.

The penalty for an offense listed in Title 38 CFR 0 1.218(b) shall be the fine set by that provision for such violation, or payment in lieu of appearance as may be provided for in the rules of the United States District Court. The penalties do not represent the collateral, which may be determined by a particular U.S. District Court as the amount which an offender may forfeit in lieu of appearance in court. This collateral forfeiture schedule is contained within VA Police Standard Operating Procedure (SOP) Chapter 3, Section L: Rule of Court and Instructions from The U.S. Attorney of Jurisdiction, as provided by the U.S. District Court of Arizona. (Attachment #3).

As outlined in the above policy, the VA Police have wide discretionary authority and can make physical arrests or issue a citation and release the offender for a given violation.

ATTACHMENTS

Attachment #1 – VA OIG Referral dated May 21, 2024.
Attachment #2 – VA Handbook/Directive 0730.
Attachment #3 – VA Police SOP 3L, Rule of Court and Jurisdiction from the U.S. Attorney of Jurisdiction.

(b)(6) Digitally signed (b)(6)

(b)(6)

(b)(6) Digitally signed by (b)(6)

(b)(6)

From: (b)(6)
To: (b)(6)
Subject: FW: VAOIG Hotline Request - 2024-02060-HL-0660
Date: Tuesday, May 21, 2024 9:57:18 AM
Attachments: image001.png

For assignment and Triage

Case Number 2024-02060-HL-0660

Instructions

TASKED FACILITY/OFFICE: Office of Security Law Enforcement

1. The VA Office of Inspector General (OIG) Hotline is referring the following allegation(s) for your review in accordance with VA Directive 0701:

Facility or Office:

OSL&E

Alleged Wrongdoer(s):

Phoenix VAMC Police Department

Allegation Specifics:

A complainant alleges that the Phoenix VA Police are in violation of VA Handbook/Directive 0730. It is reported that officers have been trained through the Field Training Officer (FTO) program to arrest individuals, conduct searches, detain them in a holding cell, and carry out an inventory of their belongings. Following these actions, the individuals are issued a payable citation and released. However, these actions contravene the stipulations of VA Handbook/Directive 0730, which clearly requires that arrested individuals be brought before a magistrate as per the Federal Rules of Criminal Procedure – Rule 5. The persistent neglect of this directive reflects a systemic oversight and a violation of the established procedures within the VA Handbook/Directive 0730.

Additionally, please also respond to and/or provide information for the following:

N/A

Supporting Documentation: Supporting documentation may be obtained by emailing our Release of Information Office (b)(6) describing the documentation, and referencing the associated case number. The items that are available for this case are:

N/A

2. Determine the merit of each complaint or allegation in accordance with VA Directive 0701, paragraph 6. Your response must include the following information and document that the review was performed by an official separate from, and at a higher grade than, the subject/alleged wrongdoer(s):

- How each allegation was reviewed
- Whether the allegation was substantiated or not substantiated
- Corrective action(s) taken to address each substantiated allegation
- The date a corrective action was initiated and or completed

- Relevant supporting documentation
- The value of any recoveries or savings
- The name and position of the reviewer

3. **The response should be submitted in memorandum form and contain a signature, written or digital, from a responsible individual (*i.e. with authority to approve the response*) in the organization tasked by OIG for the review**. It must also include the Case Number (listed at the top of this screen) and should include the name and telephone number or e-mail address of your point of contact and/or a point of contact email group in case we have follow-up questions or require documentation that supports your finding on each allegation.

Submit your response by uploading it below then clicking *Reply to this Request* in the form provided.

For your information, all or part of your report to the Inspector General may be available to the complainant under the Freedom of Information Act.

Suspense: 7/12/2024

(b)(6)

From: VA OIG Hotline <oigcospnotifications@va.gov>
Sent: Wednesday, April 17, 2024 7:46 AM

(b)(6)

Subject: VAOIG Hotline Request

VAOIG Hotline Notification

Case: 2024-02060-HL-0660

This is a request from the VA Inspector General Hotline to provide information related to a case we are working. Please refer to the instructions below and follow the link provided to reply.

View this request | View All Cases — Consider saving this email and/or bookmarking these links for future reference.

Source: Send OIG Message | Workflow Log | Workflow Status| (Initial Request)

Automated Message—Please Do Not Reply

Unconstitutional Practices and Systemic Inefficiencies: *A Request for Investigation into the Arret Procedures Conducted at the Phoenix VA Police Department*

[redacted]

[redacted]: Federal Law Enforcement Officer

VA Police Service Experience

- [redacted] VA Healthcare System (Police Officer) – [redacted] 20[redacted] – [redacted] 20[redacted]
- [redacted] VA Healthcare System (0083 Police Officer – [redacted] 20[redacted] - [redacted] 20[redacted])
- Phoenix VA Healthcare System
  - [redacted] - [redacted]
    - ([redacted] Police Officer - [redacted])

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Introduction

However, I observed issues within the department that I attempted to get answers to regarding arrest procedures and certain enforcement authority. I later discovered that the department procedure of arresting individuals were violating federal procedures and laws – along with constitutional right of Veterans and others.

Background Information:

The Phoenix VA Police Department (VAPD) is currently under scrutiny for its arrest procedures, which have been identified as not aligning with VA Handbook/Directive 0730 and the Federal Rules of Criminal Procedure, specifically Rule 5. This misalignment has led to a reliance on the county court system, circumventing the federal system, which suggests a significant gap in the department's understanding of federal law. Consequently, this practice has resulted in multiple instances where veterans' rights have been compromised, and civil rights infringements have occurred.

These procedural shortcomings, coupled with substantiated claims of discrimination within the department's management, necessitate an immediate and thorough investigation to ensure the rights of veterans and individuals are upheld and to prevent further liability and damage to the VA's integrity.

OBSERVATIONS: 2018

I observed several arrest procedures that raised concerns regarding their adherence to VA policies and federal laws. These observations included:

1. **Non-compliance with VA Handbook 0730:** Officers effected arrests even when the misdemeanor offense was not committed in their presence, contrary to the Handbook's stipulations that require direct observation of misdemeanors for an arrest without a warrant.
2. **Discrepancies with Federal Rules of Criminal Procedure:** The arrest and processing steps followed by the department appeared to deviate from the Federal Rule of Criminal Procedure, particularly **Rule 4** regarding complaints and **Rule 5**[1] regarding the initial appearance before a magistrate judge.

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[1] Rule 5: (a)(1)(A) *"A person making an arrest within the United States must take the defendant without unnecessary delay before a magistrate judge, or before a state or local judicial officer as Rule 5(c) provides, unless a statute provides otherwise."*

Arrest Procedures

The arrest procedure I was instructed to follow is outlined below:

1. Observe the offense.
2. Make a physical arrest.
3. Conduct a search incident to the arrest.
4. Transport the individual to the department (Room [redacted]).
5. Place the individual in a hold room/cell.
6. Inventory any bags or purses.
7. Fill out a United States District Court Violation Notice (USDCVN).
8. Release the person from the holding cell.
9. Provide the individual with the USDCVN.
10. Escort the individual off property.

Management's Lack of Understanding

Upon further education in federal law, it became evident that these practices are not only contrary to the VA Handbook/Directive 0730 but also violate the Federal Rule of Criminal Procedure. Management's focus on utilizing the Maricopa County Court System to pursue criminal actions further underscores a lack of understanding or disregard for federal criminal justice processes.

In response to these concerns, I have taken a cautious approach, opting to issue verbal warnings in most situations involving arrest matters. This decision was made to avoid complicity in procedures that may infringe upon the rights of individuals or the integrity of the justice process.

Maricopa County Court System

Further into my tenure at the Phoenix VA Healthcare system, I encountered instructions from the [redacted] regarding the limitations imposed upon VA law enforcement officers. These instructions included a directive that officers

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Rule 5: (b) Arrest Without a Warrant. *"If a defendant is arrested without a warrant, a complaint meeting Rule 4(a)'s requirement of probable cause must be promptly filed in the district where the offense was allegedly committed."*

 [redacted]

were not to utilize Title 18, 21 USC, with the justification that we operated within proprietary jurisdiction. This information seemed inconsistent with my understanding of federal law enforcement authority.

The approach adopted by the department for dealing with individuals in violation of the law was as follows:

1. **Arrest the individual or gather as much information as possible.**
2. **Place them in a holding cell (if arrested).**
3. **Obtain their personal information.**
4. **Release the individual.**
5. **Submit Form IV ("Long Form" within the department).**
6. **Release the offense (if arrested).**

This procedure led to confusion among officers, some of whom believed they could arrest for state offenses without clear legal authority or cross-certification. Queries to management and other officers about the authority under which state offenses would be addressed failed to elicit direct answers. Although Arizona law A.R.S. § 13-3875[3] does provide for the cross-certification of federal peace officers, VA Handbook 0730 restricts such certification[4].

Furthermore, the definition of "Peace Officers" under A.R.S. § 1-215[5] encompasses various law enforcement roles within the state, which does not seem to align with the guidance provided by [redacted] regarding officers' status as "Peace Officers" under Arizona law, specifically as it pertains to A.R.S. § 13-105. This section states that a Peace Officer "means any person vested by law with a duty to maintain public order and make arrests and includes a constable." However, the statute does not address Federal law enforcement officer enforcing state offense as mentioned in A.R.S. § 13-3875.

[redacted] I observed instances where VAPD officers arrested individuals for state offenses instead of applicable Federal offense, relying increasingly on state charges. This growing dependency on state charges calls for a critical examination of the legal grounds for such actions due to the administration and management's lack of understanding of federal law and refusal to abide by federal procedures.

OBSERVATIONS: 2019

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[3] 13-3875. Cross-certification of federal peace officers; policy; powers; qualifications; liability; records (https://www.azleg.gov/ars/13/03875.htm)

[4] *"(e) VA police officers will not be deputized or appointed as special police officers or* ***otherwise empowered with law enforcement authority by state****, municipal, county, or other non-VA agencies for the purpose of enforcing state laws and local ordinances on VA property."*

[5] https://www.azleg.gov/ars/13/00105.htm

, I remained concerned about the management administration's understanding of federal law as it relates to the proper handling of federal offenses.

Incidents of Mismanaged Federal Offenses

On 2019, I was involved in a use of force incident with an individual who refused to leave VA property. I informed was under arrest, and began resisting me and later two other officers. The supervising officer was uncertain of the proper procedure when I suggested the individual needed to be taken to the detention center and placed on a federal hold. Consequently, the individual was transported to the hospital by Phoenix medical services without being formally arrested and charged. The individual committed multiple offenses, including felonies and misdemeanors under 18 USC § 111 for assaulting a federal officer and violations of 38 CFR 1.218. No fingerprints were recorded, and I was later instructed to complete a Form IV for state charges. The case was managed by and fell through without a significant disposition, with no notification to the U.S. Attorney's Office.

On 2019, I was involved in another use of force incident where an individual was refusing to leave. After the individual became aggressive and attempted to flee, resulting in both of us falling to the ground where assaulted and resisted me, I advised my management that needed to be confined in a detention center. A from the , stationed at the , came to assist. My management arranged for a marked vehicle to transport the individual to the detention center. Once inside the jail, it became apparent that there was no standard operating procedure (SOP) for processing someone at a detention facility, which left me seeking assistance from jail officers. It was clear that there were no codes to book the offender with the federal charges for which was arrested. I was directed to charge with state offenses instead, causing concern over the legitimacy of this method (VA).

Instructed to File State Charges

After was booked into the jail, I was instructed by to complete a Form IV for state charges. Again, the U.S. Attorney's Office was not notified. The state prosecutor dropped the charges due to a lack of likelihood of a conviction. Subsequently, I was instructed to issue a USDCVN by for violations of 38 CFR 1.218(a)(5) & (b)(11) "Disorderly Conduct" despite the offender violating 18 USC § 111, a felony involving physical contact with a federal employee. Later, I discovered dismissed the ticket without coordination with the U.S. Attorney's Office after the offender had met with and expressed dissatisfaction with the matter. No fingerprints were taken in this incident either.

Concerns Reported to Phoenix VA Office of General Counsel

On 2019, fueled by my concern regarding the incident on 2019, I reached out to of Regional Counsel, via email, attaching a VA

Memorandum that detailed my concerns. My questions pertained to the procedures for transporting, booking on federal charges, state charges, and other jurisdictional matters. [redacted] did not respond to my email; instead, he forwarded it to [redacted] After some tension arose from my direct contact with the OGC, I had a conversation with [redacted] who acknowledged my good work and understood my concerns. However, [redacted] did not provide answers to the specific questions I had sent to the OGC (VA Office of General Counsel).

Similar Incidents that Would Regular Occur

Events similar to the [redacted] 2019 incident, where individuals committed felonies, including weapon possession, typically resulted in the issuance of petty offense charges via a USDCVN and/or a Form IV submission. I witnessed and became aware of cases involving felony assault, prohibited possessors, and unlawful possession charges that were never reported to the U.S. Attorney's Office. These cases also resulted in no fingerprints being taken. It appears that there may be a significant gap in the VA Police's procedures related to the handling of weapons possession and felony charges, as well as the reporting of these offenses to the appropriate federal authorities.

OBSERVATIONS: 2020

[redacted]

In January 2020, the VA Police Department (VAPD) acquired an Automated Fingerprint Identification System (AFIS) LiveScan fingerprinting station. This procurement was made under the agreement that medical professionals could use the system to obtain their fingerprint cards for certification purposes. [redacted]

Concerns Over Management's Understanding of AFIS

[redacted] I harbored concerns about management's understanding of the AFIS machine's capabilities and legal implications. [redacted] had indicated that the machine could be used for non-law enforcement purposes, such as verifying a veteran's identity when they had forgotten their identification needed to retrieve narcotics prescriptions from the pharmacy. This suggested a fundamental misunderstanding, as the primary purpose of the AFIS machine is related to law enforcement activities such as booking, identification verification, and criminal investigations.

AFIS Machine's Impact on Law Enforcement Capabilities

The introduction of the AFIS machine significantly enhanced the department's law enforcement capabilities, effectively establishing a fully functioning law enforcement agency with the equivalent of its own jailing system. As such, it was crucial to develop

clear and accurate procedures for its use, particularly concerning the booking and processing of individuals for federal offenses.

Development of SOP and Guides

To address the department's needs and to ensure compliance with federal law enforcement standards, [redacted]:

- Developing an SOP that outlined the proper use and maintenance of the AFIS LiveScan station.
- Creating a detailed guide that would assist officers in using the AFIS station for lawful and appropriate law enforcement purposes.
- Educating the department on the legal and operational scope of the AFIS machine to prevent its misuse for non-law enforcement activities.
- Developing AFIS Procedures and Federal Law Enforcement Guides

Through diligent research, I discovered there were essential processes and guidelines missing from our Automated Fingerprint Identification System (AFIS) procedures. To rectify this and enhance our department's capability, it was evident that we needed to develop:

- A Federal Criminal Complaint Guide.
- A Federal Arrest and Federal Booking Guide.
- A DNA Collection Guide

These guides would serve as foundational documents to ensure that all officers are trained and proficient in the necessary steps to handle federal offenses appropriately.

Known Violent Offender Assault on Officer — Issued USDCVN

On [redacted]/2020, a confrontation between two VA Police Officers ([redacted] [redacted] and [redacted] [redacted] and a known violent U.S. [redacted] Combat veteran ([redacted] [redacted] occurred. Despite the potential for serious harm to both the officers and the [redacted] [redacted] the veteran was secured and placed in one of the holding cells. He was later released with a citation. This incident underscored the lack of appropriate facilities and clear understanding within the department for charging and confining individuals for federal offenses.

Concerning Matters — A Call for Change

The need for a change in how the department handles confinement and charging for federal offenses was clear. I took the initiative to conduct thorough research before proceeding with any external law enforcement engagements. After obtaining permission from [redacted] through multiple communication channels starting on [redacted]2020, I embarked on a fact-finding mission to enhance our department's procedures.

Telephone Meeting with U.S. Attorney's Office

On [redacted]/2020, I engaged in a productive telephonic meeting with AUSA [redacted] to discuss several critical topics:

- The utilization of Title 18 and 21 of the United States Code on Phoenix VA property, which falls under Proprietary Jurisdiction.
- The application of the Mandatory Appearance option on citations.
- The process for charging individuals via a Criminal Complaint or Information.
- The options available to Phoenix VA Police for arresting and booking individuals into U.S. Marshals detention holding facilities.
- The possibility of arresting and booking individuals under a "Federal Hold" at the 4th Ave Jail with the Maricopa County Sheriff's Office.
- The conclusion from my research was affirmative; the department indeed had the capacity to perform all the actions mentioned above. Subsequently, I compiled a memorandum documenting my findings and presented it to both [redacted] and [redacted] to inform them and suggest the implementation of these capabilities.

Demeaning Email and Subsequent Clarifications

Despite my proactive approach and diligence in enhancing our department's law enforcement procedures, my actions were met with disapproval from [redacted] I received an email from him stating that my direct communication with the Assistant U.S. Attorney (AUSA) was out of line, and he admonished me not to contact the AUSA or any other entity without permission from [redacted] In response, I clarified to [redacted] that [redacted] had been fully informed of my communications with the U.S. Attorney's Office (USAO) as of [redacted]2020. I had explicitly told [redacted] in person, through text, and via email that I had spoken to the USAO.

[redacted] then responded, expressing his unawareness of these facts, stating, "[redacted]-[redacted]." Subsequently, on [redacted]2020, [redacted] sent me an email instructing me to "[redacted]," also mentioning that he had briefed [redacted] about my project and anticipated documentation. [redacted] was reported to be very supportive of "[redacted]," acknowledging the department's over-reliance on Arizona state charges for serious crimes and federal citations for misdemeanors or petty offenses when applicable. It was important to note that my research findings had already been documented in a memorandum titled "*Booking at 4th Ave Jail, Federal Arrest Process, U.S Attorney's Office taking cases*" dated [redacted]2020.

DNA Fingerprint Act of 2005 and Management's Resistance

During my research on the AFIS machine, I discovered significant federal mandates related to DNA collection. The **DNA Fingerprint Act of 2005**, bolstered by a directive from then-Attorney General Eric Holder in 2009, required all federal law enforcement

agencies to collect DNA samples from individuals who were arrested, which is also outlined under 34 U.S. Code § 40702[6] and 28 CFR § 28.12[7]. Despite this legal framework, there was strong resistance from certain members of management, including [redacted] and [redacted] as well as other officials, to implementing these DNA collection procedures.

Incident Involving Federal Mail from the FBI Being Taken By Management

On a related note, an incident occurred regarding the handling of federal mail. I had ordered DNA Collection kits from the FBI, which did not arrive in the expected timeframe. It later came to light that this package had been intercepted and opened by [redacted] the former [redacted], and [redacted] without prior notification to me. The package was subsequently handed over to [redacted] as I later observed the box in his office.

Response to the Handling of Federal Mail

The unsanctioned opening of federal mail intended for me and the failure to notify me of its arrival was a serious breach of protocol. This incident underscores the need for clear guidelines and respect for the privacy and integrity of federal mail, as well as the importance of proper communication within the department.

Meeting Regarding the Federal Judicial Process by [redacted]

Encouraged later by my findings, [redacted] scheduled a meeting on [redacted]/2020 in the VA conference room to discuss the implementation of the federal judicial process and DNA collection. The meeting was attended by key personnel, including [redacted] ([redacted]) [redacted] Shift [redacted] Detective [redacted] and [redacted] The meeting was productive, and most attendees seemed receptive to the changes.

The Criminal Complaint Guide: Development and Approval

On [redacted]2020, following authorization to continue my collaboration with the DOJ, I reached out to AUSA [redacted] to review my "**Sample Criminal Complaint Affidavit**," intended as a guide for the Phoenix VA Police. AUSA [redacted] along with [redacted], [redacted], not only reviewed the document but also revised it to meet their standards for court use. The result was an approved document with a fillable Criminal Complaint and Affidavit for the Phoenix VA Police.

Incident Involving an Individual With Multiple DUI Arrests

On [redacted], 2020, while serving as Acting Supervisor, I responded to a call about an erratic driver. Upon arrival, I observed a vehicle with front-end damage consistent with a DUI-related crash. I instructed my officers to conduct a traffic stop. Given the officers' limited experience with DUI and drug-related incidents, I took an active role in the

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[6] 34 U.S. Code § 40702 – *"Collection and use of DNA identification information from certain Federal offenders."*

[7] 28 CFR § 28.12 – *"Collection of DNA samples."*

investigation. The individual in question was too inebriated from narcotics, including [redacted] and [redacted], to perform Field Sobriety Tests (FSTs).

I informed the individual of his arrest and followed the arrest process as authorized and directed by VAPD management. After transporting the individual to the department, I discovered that the original officer intended to issue a payable citation and release the suspect. Given the individual's extensive DUI history, with [redacted] arrests, [redacted] convictions, and [redacted] pending DUI cases in [redacted], Arizona, I decided to assume full responsibility for the investigation to ensure public safety.

Decision to Record Fingerprints

Due to the lack of established procedures for federal arrest and booking, and no means to confine the individual in jail, I recorded the individual's fingerprints following an arrest under 38 CFR 1.218 (a)(7)&(b)(15). Considering the indirect prohibition of presenting the individual before a magistrate consistent with Rule 5, I issued a citation with a mandatory appearance to facilitate an initial appearance as soon as possible.

Towing of Vehicle for Public Safety

In the absence of a Standard Operating Procedure (SOP) for towing vehicles, I had the offender's vehicle towed to prevent further harm to the individual and the public. This decision was later met with ridicule by some within the department.

Communicating Updates to Management

This DUI arrest marked the first arrest utilizing the AFIS machine, which I reported to management. I received encouragement and support from most management members for my actions. However, I was informed by [redacted] [redacted] that [redacted] (who was not a [redacted] at the time) was upset about not being included in the [redacted] meeting and related matters. Consequently, I forwarded all updates and progress associated with the AFIS machine to him.

Wrongly Accused by [redacted] of Violating Policy and Directives

On [redacted], 2020, I received an [redacted] from [redacted] [redacted] at the time, [redacted] This email contained accusations that I had violated policy and directives by identifying training deficiencies and creating a new procedure without involving him. These accusations were in response to information I forwarded to [redacted] which was discussed during the meeting organized by [redacted] on [redacted] 2020, about the Federal Judicial process, Fingerprint, and DNA Collection.

[redacted] conveyed his offense at not being included in the meeting. He stated that my actions were overstepping my role and that I should consult with VA OS&LE and the VA Office of General Counsel before implementing certain actions. He noted that processes with AZ state courts had been coordinated with the VA Office of General Counsel, VA OS&LE, and the U.S. Attorney's Office and had been successfully upheld in court challenges.

Clarification on VA Police Policies

[redacted] [redacted] implied that I had violated VA Handbook 0730 Chapter 13, which prohibits VA Police from entering warrants, arrests, or convictions in the National Crime Information Center (NCIC). However, according to the FBI's CJIS policies and Title 28, Code of Federal Regulations Section 20.3(i), it is the responsibility of the FBI's CJIS Division to input "arrests or convictions" into the system, not the individual officer who submits the fingerprints. Moreover, as the [redacted], I was following the directives given to me by [redacted] who had the authority to assign me this task.

Absolution by FBI Fingerprint Records Division

To address the accusation, I contacted [redacted] from the FBI's CJIS Division. During our conversation, [redacted] confirmed that transmitting fingerprints via the AFIS machine or mailing the fingerprint card to the FBI after an arrest does not equate to "entering warrants, arrests, or convictions into the NCIC." He clarified that when submitting fingerprints, the information is entered into the system by the FBI, not by the submitting officer. Furthermore, [redacted] emphasized that criminal justice agencies are required to submit accurate, complete, and timely dispositions.

Requested Meeting with Current [redacted]

On 0[redacted]/2020, following the advice of [redacted] I requested a meeting with [redacted] the [redacted], to discuss the significance of the Criminal Complaint Guide. [redacted] agreed to the meeting, which was scheduled for [redacted]/2020 at 0600 hours.

Day of the Meeting

[redacted] arrived at the department at 0600 hours, an hour before his usual start time. I [redacted] this meeting. Once [redacted] opened his office, we proceeded inside for the discussion. I took the opportunity to engage with [redacted] on a personal level, expressing a desire to learn more about [redacted]. [redacted] shared details about [redacted] military and law enforcement careers, as well as his educational background and personal life.

Proposition of the Guide to [redacted]

I presented the Criminal Complaint Guide to [redacted] emphasizing its necessity and why it was required. [redacted] however, did not recognize the need for the guide, stating, "***I don't see a need for it.***" Despite my efforts to convey the importance of the guide and its role in our law enforcement duties, [redacted] remained unpersuaded, questioning why this initiative had not been undertaken by the previous leadership. I explained that it was likely due to a lack of knowledge or understanding of how to implement such a guide. At the end of the meeting, I had copies of the Criminal Complaint Guide ready for dissemination, but [redacted] declined to take any.

End of Meeting

The meeting concluded without the desired support from [redacted] and I was the sole attendee from the department that morning. Despite this, I informed several officers of the meeting's outcome, including my supervisor at the time, [redacted] The lack of acknowledgment from [redacted] regarding the importance of the Criminal Complaint Guide was disheartening, especially considering its

significance as a document necessary for presenting before a magistrate for custodial arrests and for filing charges directly in U.S. District Court.

Mental Health Facility Use for Offender Confinement – Instead of Jail

On [redacted] 2020, [redacted] sent an email to VA Police Department leadership indicating a significant policy change. The email contained a message from [redacted] dated [redacted] 2020, which clarified that VA police should not be transporting patients as it is not a law enforcement function and that VA police have no law enforcement authority off VA property, except for conducting investigations of offenses committed on property under the jurisdiction of the Department. This directive was based on the provisions set forth by 38 U.S.C. § 902(E) and the VA Handbook 0730.

Lack of Arrest Procedure and Confinement Means

The Phoenix VA Police Department faced challenges with respect to understanding and implementing federal arrest and criminal justice processes. Due to these challenges, the department began referring cases to the Urgent Psychiatric Center (UPC) in Phoenix, AZ, as an alternative to confinement in jail. This practice was observed as a response to the lack of established federal arrest and booking procedures for handling violent offenders within the department.

Observations: 2021

Initiative for Legal Department to Review Fingerprint, Arrest, and DNA Guide

In [redacted] 2021, I contacted [redacted] Counsel to inform them about the AFIS machine [redacted]. The representative requested the current policies for fingerprinting during arrests, but I explained that none existed. [redacted]. I also mentioned a Federal Arrest & Booking Guide, which included DNA collection and a Criminal Complaint guide, all of which the representative asked to review and stated they would be forwarded to the [redacted] Legal specialist in Washington D.C. for further evaluation.

Reaction from VA Police Leadership

The following day, I was asked to discuss the matter with [redacted] who expressed displeasure over the situation. Despite my efforts to explain the need for these guidelines and my authorization to draft them, it was clear that there was a lack of understanding about the requirements of Federal arrest procedures. As a result, the AFIS project was discontinued. I subsequently sent an email to [redacted] apologizing for any issues caused but also reiterating that I was tasked with the project with full support from the entire management administration and was encouraged by [redacted] not to abandon it. Unfortunately, [redacted] did not provide exoneration, instead indicating a preference for traditional methods over the innovation the AFIS system represented.

Harassment and Discrimination Followed

Following the events surrounding the AFIS project and the drafting of law enforcement guides, I encountered a pattern of harassment and discrimination

based on race. This pattern of behavior stemmed from resistance to change and misunderstandings within the department. The allegations of racial harassment were later investigated in 2023 and substantiated by the VA Office of Employment Discrimination Complaint Adjudication (OEDCA).

Incident with Violent Individual Highlights Systemic Challenges

On [redacted], 2021, approximately one year after initial concerns were raised, [redacted] returned to the facility exhibiting aggressive behavior. Despite the efforts of myself and two other officers, we had no means to detain [redacted] in a secure facility because of existing departmental limitations; our only recourse was to issue a citation, adding to his [redacted] outstanding warrants from previous encounters. During the altercation, I was assaulted by [redacted] After subduing [redacted] and removing [redacted] from the property, local police were summoned due to [redacted] suicidal statements.

Management's Role in Preventing Adequate Response

This event underscores the consequences of discrimination and resistance to change within the department. [redacted] a person of substantial influence, not only dismissed my legally mandated solutions but actively undermined my efforts through rumormongering. The preference for rarely used state systems with questionable arrest procedures over the necessary federal approach perpetuated the challenges we faced in handling such incidents.

Proactive Measures Taken Following the Assault

In response to the incident with [redacted] I took the initiative to coordinate discreetly with the U.S. Attorney's office, as I was authorized to do. Initially, they suggested issuing another citation, but upon learning of [redacted] existing warrants, they agreed to pursue a different course of action. I filed a Criminal Complaint in federal court, testified before a Grand Jury, and ultimately, [redacted] was indicted, pleaded guilty, and was convicted.

This proactive approach, while successful in addressing the immediate threat posed by [redacted] was met with animosity from management, who have since ceased communication with me on this matter. The lack of engagement from management on this issue is a clear indication of the ongoing challenges within the department.

Addressing Confinement Issue for Federal Offenses

During the [redacted] on [redacted]/2021, a "[redacted]" style meeting management had been hosting, I brought up my concern openly about the arrest process and booking issues. Hosted by [redacted] for the [redacted] shift, [redacted] provided unsolicited answers on topics such as [redacted] and the upcoming [redacted]. After [redacted] presentation, I respectfully requested the opportunity to pose some challenging questions. [redacted] in a welcoming manner, allowed me to proceed. I then asked, "*Why is it that I have worked here for almost* [redacted]*, and ninety-nine percent (99%) of the officers here do not know how to book an offender into jail or a correctional facility*?"

[redacted] *Unaware of Procedures*

[redacted] paused before attempting to assure me that if there was ever a need to book someone, the Phoenix Police Department (PPD) would assist. I countered

this by explaining that assisting with transport does not equate to assisting with booking, which is against PPD policy (Phoenix Police Department). I further clarified that PPD officers would likely be unfamiliar with the procedures for booking a federal offender on a "Federal Hold" or the coordination required with the U.S. Attorney's and U.S. Marshals Offices. [redacted] attempted to argue, but it was apparent he did not have adequate responses to my points.

[redacted] then questioned why I hadn't already taken action to address the issue. I informed [redacted] that I had indeed developed a "Federal Arrest & Booking Guide" in 2020, which had been approved by both the USAO & USMS, and that it addressed the department's need for proper arrest and booking procedures on federal charges. I expressed my disappointment that management had been overlooking this critical resource for over a year, likening my situation to the character "[redacted]" from [redacted], subtly raising the issue of race, though [redacted] did not address this aspect. To defuse the tension, I shifted the conversation to commend [redacted] for hosting the Q&A session. Subsequently, I sent [redacted] a copy of the "Federal Arrest and Booking Guide," but unfortunately, I never received a response from [redacted].

Confusion and Lack of Knowledge Exposed in Federal Procedures

On [redacted], 2021, a perplexing situation arose when Assistant U.S. Attorney [redacted] reached out to me after I had inquired about federal criminal judicial processes. [redacted] mentioned that [redacted] had directed a [redacted] who had questions about federal procedure to contact me.

Miscommunication with [redacted]

[redacted] reference to a [redacted] was initially puzzling, as no [redacted] from any agency had collaborated with me on the felony assault case I was working on. Upon further discussion, it was revealed that the [redacted] was none other than VA Police [redacted] of the now-defunct [redacted], established by [redacted]

Request for Training in Federal Criminal Judicial Process

[redacted] had called AUSA [redacted] seeking instruction on the Federal Criminal Judicial Process, particularly concerning the Federal Arrest & Booking procedures for federal charges. [redacted] indicated to [redacted] that the training [redacted] sought would be extensive, and instead, [redacted] recommended that [redacted] consult with me, given my previous work and the creation of guides on these subjects that had been approved by [redacted] office but disregarded by [redacted] and [redacted]

Apparent Motive and Reaction

During my conversation with [redacted] it became evident that [redacted] request was perceived as an attempt to sidestep the established process and the expertise already available within the department. [redacted] and I shared a laugh over [redacted] transparent maneuver, recognizing the underlying implications of [redacted] actions.

URGENT NEED FOR INVESTIGATION INTO VAPD PRACTICES

The practices of the Phoenix VA Police Department (VAPD) regarding arrest procedures have raised serious concerns that necessitate a thorough investigation. The following points highlight the critical issues at hand:

- **Misalignment with VA Handbook/Directive 0730:** It has become apparent that the VAPD's arrest procedures do not align with VA Handbook/Directive 0730, resulting in violations of the Federal Rules of Criminal Procedure, specifically Rule 5.
- **Circumvention of Federal System:** The VAPD has been utilizing the county court system as a method to circumvent the federal system, which appears to stem from management's lack of knowledge and understanding of federal law.
- **Veterans' Rights Violations:** The current procedures enforced by management have led to numerous violations of veterans' rights, resulting in infringements of civil rights and potential legal implications.
- **Need for a Decade-Long Review:** A comprehensive review of the department's practices over the last ten years is imperative to fully grasp the extent and impact of these procedural issues.
- **Documented Evidence and Communication:** Over the course of four (4) years, I have meticulously documented evidence and communications, bringing attention to the issues within the department. Despite these efforts, my concerns have been disregarded by the current administration, leading to discrimination that was substantiated by the VA OEDCA on October 13, 2023.

IMPLICATIONS OF INACTION

If these matters are not promptly and adequately addressed through an investigation, there is a significant risk that the department will continue to violate the rights of veterans and individuals. This could expose both the agency and individual employees to substantial liability and potentially lead to public embarrassment for the VA, reminiscent of the 2014 VA Scandal.